



Exempt Action Final Regulation Agency Background Document

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| Agency name | State Air Pollution Control Board |
| Virginia Administrative Code (VAC) citation | Primary action: Article 8, 9VAC5-80 (Permits for Stationary Sources) Secondary action: 9VAC5-10-30 (General Definitions) |
| Regulation title | Regulations for the Control and Abatement of Air Pollution |
| Action title | Major New Source Review Permits (Rev. A11) |
| Document preparation date | June 14, 2011 |

When a regulatory action is exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 A of the Administrative Process Act (APA), the agency is encouraged to provide information to the public on the Regulatory Town Hall using this form.

Note: While posting this form on the Town Hall is optional, the agency must comply with requirements of the Virginia Register Act, the *Virginia Register Form, Style, and Procedure Manual*, and Executive Orders 14 (2010) and 58 (99).

Summary

Please provide a brief summary of all regulatory changes, including the rationale behind such changes. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.

Articles 8 and 9 of 9VAC5 Chapter 80 (Permits for Stationary Sources) apply to the construction or reconstruction of new major stationary sources or major modifications to existing ones in prevention of significant deterioration (PSD) areas and in nonattainment areas. This major new source review (NSR) permitting program requires that the owner obtain a permit prior to the construction or modification of a major source. The owner of the proposed new or modified source must provide information as may be needed to enable a preconstruction review in order to determine compliance with applicable control technology and other standards, and to assess the impact of the emissions from the facility on air quality. The regulations also provide the basis for final action on the permit depending on the results of the preconstruction review.

On May 16, 2008 (73 FR 28321), the U.S. Environmental Protection Agency (EPA) promulgated a final rule revising the NSR permitting program for PSD and nonattainment areas. The new rule includes the major source threshold, significant emissions rate, and offset ratios for particulate matter less than 2.5 micrometers (PM_{2.5}), interpollutant trading for offsets and applicability of NSR to PM_{2.5} precursors. On October 20, 2010 (75 FR 64864), EPA promulgated a final rule revising the federal NSR permitting program for PSD. The new rule amends the requirements for PM_{2.5} under the PSD program by adding maximum allowable increases in ambient pollutant concentrations (increments) and two screening tools,

known as the significant impact levels (SILs) and a significant monitoring concentration (SMC) for PM_{2.5}. In Virginia, where the state is administering the NSR program under an approved SIP, the state may adopt and submit revisions to the SIP to reflect the rule revisions. The revised SIP should be the same as or equivalent to the revised federal program.

Statement of final agency action

Please provide a statement of the final action taken by the agency, including (1) the date the action was taken, (2) the name of the agency taking the action, and (3) the title of the regulation.

On June 10, 2011, the State Air Pollution Control Board took final action to adopt amendments to regulations entitled "Regulations for the Control and Abatement of Air Pollution," specifically, Permits for Major Stationary Sources and Major Modifications Locating in Prevention of Significant Deterioration Areas, and Permits for Major Stationary Sources and Major Modifications Locating in Nonattainment Areas or the Ozone Transport Region (9VAC5-80, Articles 8 and 9). The regulatory action is to be effective as provided in the Administrative Process Act.

The regulation amendments are exempt from the state administrative procedures for adoption of regulations contained in Article 2 of the Administrative Process Act by the provisions of § 2.2-4006 A 4 c of the Administrative Process Act because they are necessary to meet the requirements of the federal Clean Air Act and do not differ materially from the pertinent U.S. Environmental Protection Agency (EPA) regulations.

In adopting these amendments, the board affirmed that it will receive, consider and respond to petitions by any person at any time with respect to reconsideration or revision, as provided in § 2.2-4006 B of the Administrative Process Act.

All changes made in this regulatory action

Please detail all changes that are being proposed and the consequences of the proposed changes. Detail new provisions and/or all changes to existing sections.

| Current section number | Proposed new section number, if applicable | Current requirement | Proposed change and rationale |
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| 9VAC5-10-10 | | General definitions. | List of abbreviations has been corrected and updated, including the addition of terms used for different types of particulate matter. Needed to make regulation more user-friendly. |
| 9VAC5-80-1615 C | | PSD definition of "baseline area." | Revised to correct the federal Clean Air Act citations and to indicate a specific air quality impact for PM _{2.5} . Needed to meet specific federal requirements and enable proper permitting of PM _{2.5} emissions. |
| 9VAC5-80-1615 C | | PSD definition of "baseline date." | Revised to indicate specific baseline dates for PM _{2.5} , and to correct the federal Clean Air Act citation. Needed to meet specific federal requirements and enable proper permitting of PM _{2.5} emissions. |

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| 9VAC5-80-1615 C | | PSD definition of "regulated NSR pollutant." | Revised to specify various pollutant precursors. Needed to meet specific federal requirements and enable proper permitting of PM _{2.5} emissions. |
| 9VAC5-80-1615 C | | PSD definition of "significant." | Revised to add emissions rates for various forms of PM _{2.5} . Needed to meet specific federal requirements and enable proper permitting of PM _{2.5} emissions. |
| 9VAC5-80-1635 | | PSD list of maximum allowable increases for ambient air increments. | Revised to add levels for PM _{2.5} . Needed to meet specific federal requirements and enable proper permitting of PM _{2.5} emissions. |
| 9VAC5-80-1695 E 1 | | PSD air quality impacts for which the board may grant an exemption from monitoring requirements. | Revised to include levels for PM _{2.5} . Needed to meet specific federal requirements and enable proper permitting of PM _{2.5} emissions. |
| 9VAC5-80-1715 | | PSD air quality impacts for the purposes of source impact analysis. | Revised to add levels for PM _{2.5} . Needed to meet specific federal requirements and enable proper permitting of PM _{2.5} emissions. |
| 9VAC5-80-1765 F | | Special PSD requirements for sources affecting federal class I areas. | List of maximum allowable increases for ambient air increments has been revised to add levels for PM _{2.5} . Needed to meet specific federal requirements and enable proper permitting of PM _{2.5} emissions. |
| 9VAC5-80-2010 C | | Nonattainment definitions of "continuous emissions monitoring system (CEMS)" and "continuous parameter monitoring system (CPMS)." | Corrected to properly reference "article" instead of "section." Needed in order for the regulations to operate properly. |
| 9VAC5-80-2010 C | | Nonattainment definition of "regulated NSR pollutant." | Revised to specify various pollutant precursors. Needed to meet specific federal requirements and enable proper permitting of PM _{2.5} emissions. |
| 9VAC5-80-2010 C | | Nonattainment definition of "significant." | Revised to add emissions rates for various forms of PM _{2.5} . Needed to meet specific federal requirements and enable proper permitting of PM _{2.5} emissions. |
| 9VAC5-80-2120 | | Nonattainment provisions for offsets. | Revised in order to accommodate interprecursor pollutant offsetting for PM _{2.5} . Needed to meet specific federal requirements and enable proper permitting of PM _{2.5} emissions. |

Regulatory flexibility analysis

Please describe the agency's analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: (1) the establishment of less stringent compliance or reporting requirements; (2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; (3) the consolidation or simplification of compliance or reporting requirements; (4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and (5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.

An analysis of the proposal was completed for alternative regulatory methods that will minimize the adverse impact on small businesses without compromising health, safety, environmental and economic welfare.

This regulation meets the minimum requirements of the federal Clean Air Act and the minimum requirements of 40 CFR Part 51, and does not differ materially from the pertinent EPA regulations. Any less stringent compliance requirements, any delays in adopting the standards, any different compliance or reporting requirements, any substitution of performance standards, and any exemption of small businesses from these requirements will not meet the minimum federal requirements. Any such changes would compromise the effectiveness of the new requirements in protecting the health and welfare of the public, and could potentially subject the Commonwealth to federal control over the state permitting program.

Family impact

Assess the impact of this regulatory action on the institution of the family and family stability.

It is not anticipated that these regulation amendments will have a direct impact on families. However, there will be positive indirect impacts in that the regulation amendments will ensure that the Commonwealth's air pollution control regulations will function as effectively as possible, thus contributing to reductions in related health and welfare problems.

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